IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.M.JAMES

WEDNESDAY, THE 25TH OCTOBER 2006 / 3RD KARTHIKA 1928

Bail Appl..No. 6347 of 2006()

CRIME NO.213/1997 OF OLLUR POLICE STATION
AGAINST THE ORDER DATED 05/10/2006 IN MP.4689/2006 IN CC.509/2006 of J.M.F.C.-III,THRISSUR

.....

PETITIONER/ACCUSED:

ABDUL RAHIM, S/O. ABDU,
NANGETTIL HOUSE, VELIMUKKU, THIROORANGADI.

BY ADV. SRI.P.V.GEORGE(PUTHIYEDAM)

RESPONDENTS: COMPLAINANT:

STATE OF KERALA, (C.I. OF POLICE,
OLLUR POLICE STATION REP. BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR, SRI JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 25/10/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

J.M.JAMES, J.

- - - - - - - - - - - - - - - - - - - -

B.A. No. 6347 of 2006

- - - - - - - - - - - - - - - - - - - -

Dated this the 25th day of October, 2006

O R D E R

The petitioner was absconding in C.C.No.265/1997, which has been pending on the file of Judicial Magistrate of the First Class-III, Thrissur, for the offence punishable under Section 379 I.P.C., read with Section 34 of the Indian Penal Code against the three accused, the petitioner being the first accused.

2. The disposal of the case against accused Nos.2 and 3, took place on 09/05/2001, after splitting and refiling the case against the petitioner, the first accused, before the very same court. Subsequently, the petitioner was arrested on 11/07/2006 and on producing, the court obviously remanded him to judicial custody. The application was rejected by the court below. Subsequently, the same fate was met before the sessions court, as well. Now, the petitioner is before this Court for bail.

3. I heard the arguments advanced by the learned counsel for the petitioner, Mr.P.V.George (Puthiyedam). The

counsel submits that the petitioner had not received any summons and he being a vehicle broker, was not available in the station. Further submission of the counsel is that, he would be readily available before the court below and therefore, prayed for grant of bail.

4. The learned Public Prosecutor opposed the same on the ground that a calendar case of the year 1997 is even pending because of the absconding of the petitioner, who along with others have committed theft of a Maruthi car belonging to CW.1, kept in a courtyard of CW.3, on 15/07/1997. The prosecutor also took the stand that, if the petitioner is released, the trial would be adversely affected. However, the learned counsel for the petitioner has submitted that after the arrest and production of the petitioner before the court below, summons has been issued to the witnesses. None had attended the court. Therefore, the case is adjourned. The apprehension of the counsel, therefore, is that if bail is not granted, the petitioner may be kept in judicial custody, indefinitely.

5. In the above fact situation, I direct the Judicial Magistrate of the First Class-III, Thrissur, to expedite the trial of

the case of the petitioner, at the earliest and, in any case, within 45 days, on receipt of this order. However, I make it clear that, if the learned Magistrate is unable to dispose of the matter within the above period, because of the non attendance of the witnesses, or the prosecution is unable to produce the witnesses, the learned Magistrate shall release the petitioner on bail, on imposing such conditions, so that the petitioner will be available before that court, for the disposal of the case.

(J.M.JAMES)
Judge

ms